

Table of Contents

Executive Summary	Click Here To View	i
Introduction		1
Background		1
Mediation And Arbitration Statistics		3
Audit Objective, Scope, And Methodology		5
Major Accomplishments Related To This Program		6
Finding I		
Opportunities Exist For The Rental Dispute Program To Increase Its Efficiency And Improve Its Effectiveness		7
The Program Did Not Have Adequate Management Information To Facilitate Program Administration Or Informed Policy Making Decisions		8
On Average Each Staff Member Spends 69 Minutes A Day On The Phone Assisting Callers		10
Half Of All Callers To The Program Are Not Living In Structures Covered Under The Rent Control Ordinances		11
Tenants Represented 68 Percent Of Callers To The Program		12
Of The Calls To The Program, 11 Percent Were About Evictions		13
Program Staff Refer Half Of All Callers To Other Organizations		14
Program Staff Directed Most Of Its Referred Callers To Bay Area Legal Aid Or The Legal Aid Housing Program		15
Program Outreach Should Be Improved Through Partnership Strategies And Targeted Education		16
Of The Callers To The Program, Four Percent Did Not Speak English		17
Only Two Percent Of Program Callers Cited The Program’s Outreach Efforts As Their Source Of Program Awareness		17
The Program Should Develop Written Office Procedures, Cross-train Staff, And Develop A Purpose Statement With Corresponding Goals, Objectives, And Performance Indicators		19
The Program’s Website Needs To Be Updated		20
Other Jurisdictions Provide A Benchmark For Effective Websites		21
The Program’s Current Answering System Is Inadequate		22
Program Staff Should Increase Support For Commissions		25
The Apartment Ordinance Should Be Amended		28
CONCLUSION		33

RECOMMENDATIONS	33
Administration's Response Click Here To View	37
Appendix A Click Here To View	
Definition Of Priority 1, 2, And 3 Audit Recommendations	A-1
Appendix B Click Here To View	
Service Request Form	B-1
Appendix C Click Here To View	
Weekly Activity Log.....	C-1
Appendix D Click Here To View	
Referral Agencies	D-1
Appendix E Click Here To View	
Benchmarking Statistics	E-1
Appendix F Click Here To View	
Accomplishments Of The Rental Dispute Program.....	F-1

Table of Exhibits

Exhibit 1

Percent Of Cases Resolved Before Or During Mediation Or Arbitration Since January 1, 2000	4
--	---

Exhibit 2

Percent Of Cases Resolved In Mediation Since January 1, 2000	4
--	---

Exhibit 3

Percent Of Cases Resolved In Arbitration Since January 1, 2000	5
--	---

Exhibit 4

Ordinance-Covered/Not Covered Callers	11
---	----

Exhibit 5

Reasons Callers' Structures Were Not Covered By Ordinances	12
--	----

Exhibit 6

Composition Of Callers To The Program	12
---	----

Exhibit 7

Composition Of Calls To The Program By Topic	13
--	----

Exhibit 8

Callers Who Were Concerned About Evictions By Apartment Complex (Based On Five Weeks Of Data).....	14
---	----

Exhibit 9

Outcomes Of Calls To The Program.....	15
---------------------------------------	----

Exhibit 10

Where Callers Are Referred.....	15
---------------------------------	----

Exhibit 11

Caller Language Spoken	17
------------------------------	----

Exhibit 12

Caller-Cited Sources Of Program Awareness.....	18
--	----

Exhibit 13

Comparison Of San Jose's Rent Control Program's Pertinent Statistics To Other Bay Area Programs	32
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Introduction

In accordance with the City Auditor's 2000-01 Audit Workplan, we have audited the Rental Dispute Program (Program). The Program is part of the Neighborhood Services Division of the Department of Parks, Recreation, and Neighborhood Services (PRNS). We conducted this audit in accordance with generally accepted government auditing standards and limited our work to those areas specified in the Scope and Methodology section of this report.

The City Auditor thanks the Department staff, commissioners, the Mayor's Rental Housing Task Force, the City's legal representative to the Program, and others who gave their time, information, insight, and cooperation during the audit.

Background

The City has two ordinances that regulate rent increases in apartments and mobilehomes that took effect in 1979. Program staff administers the Mobilehome Rent Ordinance (Mobilehome Ordinance) and the San Jose Rental Dispute Mediation and Arbitration Ordinance (Apartment Ordinance).

An annual fee of \$5.70 per eligible apartment and mobilehome unit funds the Program, which is intended to be cost recovery. There are a total of 53,794 units subject to the annual fee, which include 43,454 apartment units and 10,340 mobilehomes. The Program has an annual operating budget of about \$306,000. A Senior Analyst, a Community Activity Worker, and an Office Specialist staff the Program. In addition, the Program is charged for ten percent of the salary for the Parks, Recreation, and Neighborhood Services (PRNS) Department Deputy Director assigned to the Program.

The Mobilehome Ordinance annual allowable rent increase is based on 75 percent of the San Francisco/Oakland Consumer Price Index (currently 4.4 percent) with an annual guaranteed minimum allowable increase of three percent and a maximum of seven percent. The Apartment Ordinance maximum allowable increase is set at eight percent annually. However, a rental increase of up to 21 percent is allowable if more than 24 months has elapsed since the last increase. Additional rent increases, called passthroughs, are possible under the ordinances when the landlord can prove that, due to operations and maintenance costs or capital improvements to the property, rent increases above the annual allowable amount are justified.

Any rent increases landlords impose in excess of the annual allowable amount are subject to the mediation and arbitration process as set forth in the ordinances.

The City's Municipal Code, Title 2, Chapter 2.08 established two commissions to oversee their respective ordinances. The Advisory Commission on Rents consists of seven members: two tenant representatives, two landlord representatives, and three neutrals. The Mobilehome Advisory Commission consists of five members: one resident representative, one landlord representative, and three neutrals.

Both the Mobilehome Advisory Commission and Advisory Commission on Rents are responsible for making recommendations to the City Council regarding rules and regulations, changes to the ordinance, and the staffing required to oversee hearing operations. Both commissions also are to prepare and transmit a semiannual report on hearing operations to the City Council and the City Manager. The Mobilehome Advisory Commission also is supposed to conduct studies and submit reports regarding mobilehome living in San Jose to the City Council and the City Manager. The Apartment Ordinance requires the Advisory Commission on Rents to prepare and submit an annual budget to the City Manager and perform other City Council-requested functions.

To support the two commissions and the hearing process, Program staff is supposed to 1) prepare and distribute commission meeting materials and status reports, 2) participate in commission meetings, 3) arrange hearing logistics, 4) coordinate the selection of Hearing Officers, and 5) respond to questions concerning compliance with Hearing Officer decisions. According to the Mobilehome Ordinance, Program staff also is to 1) maintain files pertaining to rent disputes for which petitions are filed; 2) review petitions for timeliness and completeness; 3) send notices to landlords, mobilehome owners, and mobilehome tenants; 4) calculate the maximum annual percentage allowable rent increase; and 5) perform other City Manager-determined duties.

In addition to hearing process operations, Program staff provides information and referral services to San Jose landlords and renters on a wide variety of topics. Staff also distributes brochures and other materials for both English and Spanish speakers.

Hearings are conducted at City Hall on Monday through Thursday evenings. The hearings consist of mediation and, if necessary, arbitration. Mediation seeks voluntary agreement between parties. In many cases voluntary agreement is reached before or during the hearing. If voluntary agreement is not reached during a hearing, a Hearing Officer issues a written decision. If this written decision is appealed, the case moves to arbitration. Most arbitration cases do not result in a voluntary agreement. About three-quarters of all arbitration cases require a Hearing Officer to write a legally binding decision.

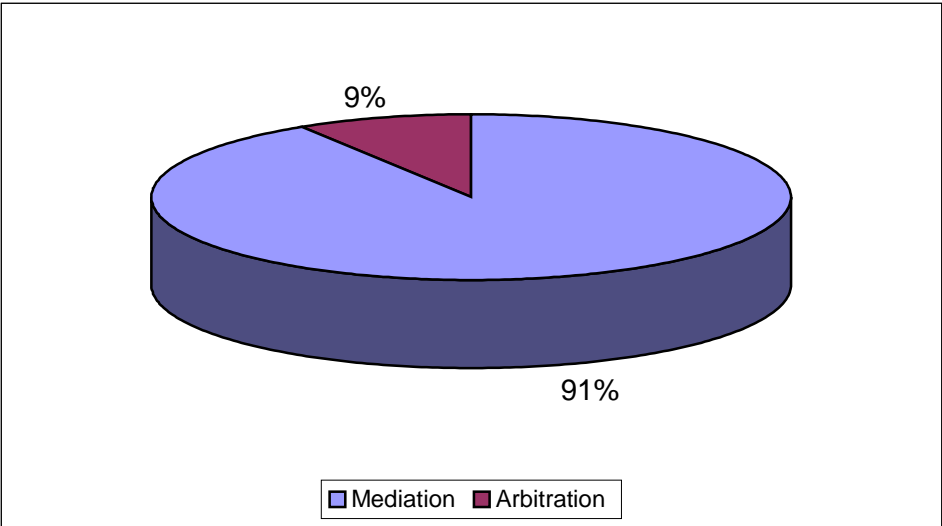
No one has filed a petition for a hearing related to a mobilehome rent increase in several years. This is largely due to the difference between the two ordinances. Specifically, under the Mobilehome Ordinance, park owners must petition the Program in order to raise rents above the allowable increase. Conversely, under the Apartment Ordinance tenants are required to file petitions if they think their rent was inappropriately increased by more than the eight percent maximum.

The Program currently pays seven Hearing Officers. Of the Program's annual budget, \$45,000 is set aside for payment to Hearing Officers and \$15,000 is allocated to room rental and other Hearing Officer expenses.

**Mediation And
Arbitration
Statistics**

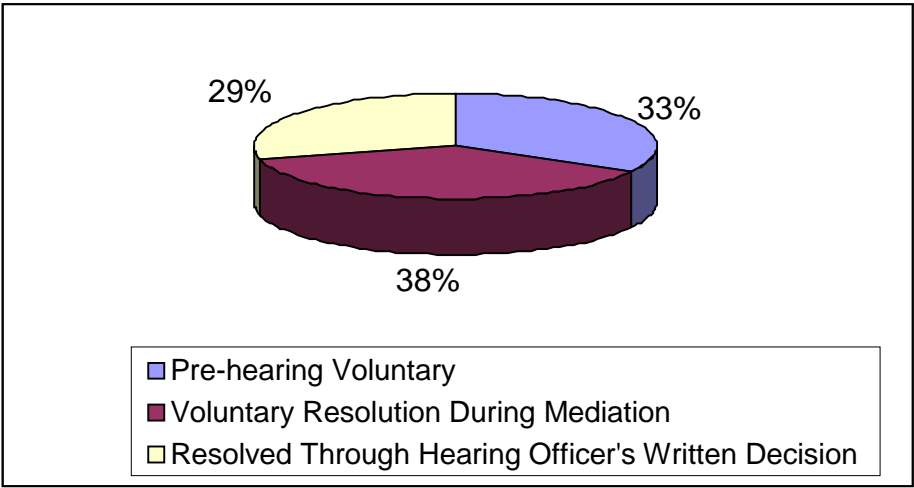
The Program handled 138 apartment-related cases in 2000. As of November 2001, 169 cases had been opened. This information, taken from the Program's case log, provided us with some valuable hearing data. Of the cases handled between January 2000 and November 2001, 91 percent were resolved before or during mediation and did not require arbitration.

Exhibit 1 Percent Of Cases Resolved Before Or During Mediation Or Arbitration Since January 1, 2000



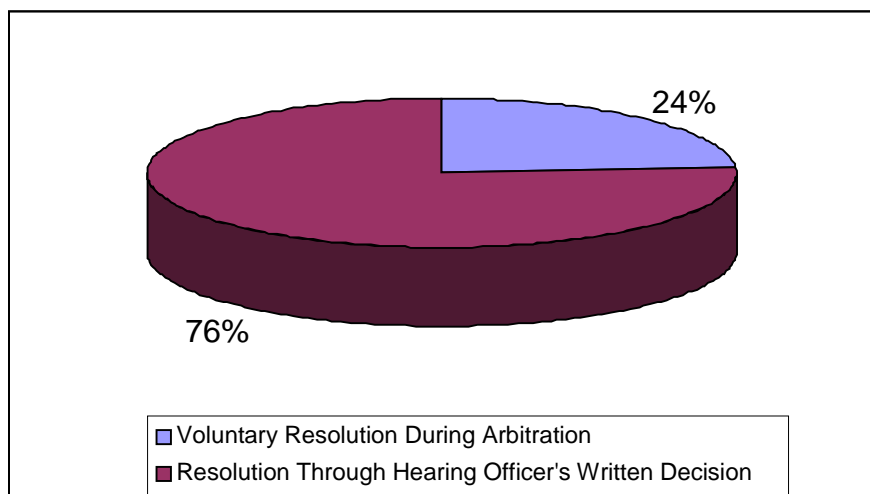
Of those 91 percent of cases resolved before or during mediation, only 29 percent required a written Hearing Officer mediation decision.

Exhibit 2 Percent Of Cases Resolved In Mediation Since January 1, 2000



Of the nine percent of cases that reached arbitration, 76 percent required a written Hearing Officer decision.

Exhibit 3 Percent Of Cases Resolved In Arbitration Since January 1, 2000



Audit Objective, Scope, And Methodology

The objective of this audit was to evaluate the efficiency and effectiveness of the Program. However, because there was limited workload data or management information available for us to audit, we designed workload data collection forms and collection procedures for Program staff to use. We subsequently analyzed the workload data Program staff recorded from October 9, 2001 to December 7, 2001. We also collected and reviewed the following Program information:

- Budget information;
- Correspondence;
- Commission status reports (previous 2 years);
- Commission meeting minutes (previous 2 years);
- Petition case log;
- Investing In Results (IiR) Information; and
- Rental Dispute Program Annual Report (2000).

We observed Program activities and interviewed Program staff to better understand typical daily activities and call types. For the purpose of understanding Program activities, we developed an activity schedule for staff to complete on a weekly basis. Additionally, we benchmarked similar rent control programs in the Bay Area (for benchmarking results see Appendix E). The Service Request data collection system that we designed for

call-tracking purposes is similar to the one Berkeley’s Rent Stabilization Board uses.

We interviewed commission members, the Program’s former Senior Analyst, members of the Mayor’s Rental Housing Task Force, members of the Mayor’s staff, the City Attorney’s Office lawyer assigned to the Program, Community-Based Organizations who interact with the Program, the City Council representative to the Advisory Commission on Rents, and staff from the City’s Information Technology Department.

Also, we determined that the Program’s listings of apartments built prior to 1979, which were either included or exempt from the ordinance (Section 8 housing), were accurate. Finally, it should be noted that our audit scope did not include the need for, or the appropriateness of, a Just Cause Eviction Ordinance.

**Major
Accomplishments
Related To This
Program**

In Appendix F, the Acting Director of PRNS informs us of the Rental Dispute Program’s major accomplishments.

Finding I

Opportunities Exist For The Rental Dispute Program To Increase Its Efficiency And Improve Its Effectiveness

During our audit of the Rental Dispute Program (Program) we identified that the Program did not have adequate management information to facilitate Program administration or informed policy making decisions. Accordingly, we worked with Program management to develop a form to capture the amount of time Program staff spent on various activities and specific information regarding the people the Program serves. We also worked with Program management to compile and summarize the workload and service recipient information Program staff recorded from October 9, 2001 to December 7, 2001. Based upon our analysis of this workload and service recipient information we identified the following:

- On average, each Program staff member spends 69 minutes a day on the phone assisting callers;
- Half of all callers to the Program are not living in structures covered under the rent control ordinances;
- Tenants represented 68 percent of all callers to the Program;
- Of the calls to the Program, 11 percent were about evictions;
 - Based on five weeks of data, of the callers to the Program who were concerned about evictions, 65 percent lived in apartment complexes with fewer than ten units;
- Program staff referred half of all callers to other organizations;
- Program staff directed most of its referred callers to Bay Area Legal Aid and the Legal Aid Housing Program;
- Of the callers to the Program, four percent did not speak English; and
- Only two percent of callers to the Program cited the Program's outreach efforts as their source of Program awareness.

Given the above information, in our opinion, the Program can improve its efficiency and effectiveness by:

- Maintaining adequate management information and automating its data collection efforts; and
- Improving Program outreach through partnership strategies and targeted education.

In addition, the Program can further improve its effectiveness by:

- Developing written office procedures, cross-training staff, and developing a Program purpose statement with corresponding goals, objectives, and performance indicators;
- Improving the Program website by updating the home page with an easy-to-use menu and providing additional information and links to other organizations;
- Installing a call answering system to ensure 24-hour, multi-lingual service; and
- Providing the commissions with better service.

Finally, by implementing the above recommendations, the Program should have sufficient resources available to implement additional Rental Dispute Program initiatives.

Accordingly, we recommend that the City Council approve or forward to the Task Force for consideration any Ordinance amendments that will 1) enhance the Program's effectiveness by making it more proactive in the areas of tenant eviction and rental increases, and 2) provide the City Council and other rent control stakeholders with significantly more and better information for policy-making purposes.

The Program Did Not Have Adequate Management Information To Facilitate Program Administration Or Informed Policy Making Decisions	Sufficient and adequate management information is a basic management control concept for any government program. In the case of the Rental Dispute Program (Program) such information facilitates Program administration and audits. More important, Program management information allows the City Council to make well-informed policy decisions regarding rent control. Because the City Council will make some important decisions regarding rent control over the next year, Program staff should maintain the management information necessary to facilitate that process. However, we found that
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Program staff did not maintain adequate workload or management information. Specifically, when we tried to collect and analyze management information on telephone call volumes, caller demographics, and other program statistics, we found the Program did not record any such information.

The main reason staff did not maintain adequate workload or management information is the recent changes the Program has experienced. Specifically, the Program was moved to another office in May 2001 and has experienced considerable staff turnover during the past 18 months. For example, the Community Activity Worker, the Senior Analyst, and the Office Specialist have been in their current positions only since September 2000, January 2001, and May 2001, respectively. The impact of these changes has been exacerbated by the Senior Analyst's chronic illness. As a result, the Program has not conducted call monitoring or kept adequate records of Program activities.

It should be noted that the Program's former Senior Analyst told us that he did track call data. However, current Program staff could not locate the files containing this data when we asked them to do so.

Upon seeing the need for the Program to generate management information, we created a Service Request form (See Appendix B) to allow Program staff to collect information on all service requests. Program staff began filling out the Service Request forms on October 9, 2001. We also devised a quick data retrieval method to facilitate weekly, monthly, and quarterly reporting and analysis. This management information will provide the basis for citywide decision making in the coming months, particularly with respect to 1) adequate Program staffing levels, 2) appropriate dissemination of outreach dollars, and 3) various means of augmenting Program service levels.

**On Average Each
Staff Member
Spends 69 Minutes
A Day On The
Phone Assisting
Callers**

We also have created a Weekly Activity Log (See Appendix C) to track the activities of Program staff beyond call answering. According to data collected from October 9, 2001 to December 7, 2001, each staff member averages only 69 minutes per day on the phone. By using the activity log, the Program will be able to determine what its staff is doing when they are not on the telephone. As of December 7, 2001, Program staff had only completed these activity logs for one week.

The data collection system we devised for the Program is subject to human error. Accordingly, the Parks, Recreation, and Neighborhood Services (PRNS) Deputy Director assigned to the Program should review the data collected on a weekly basis to help ensure its accuracy and to stay informed about Program activity. In addition, the Program could automate this data collection process by 1) completing service requests on-line, 2) creating a database to house Service Request information, and 3) automatically generate reports. Automatic report generation would save staff time and virtually eliminate data collection and compilation errors.

We recommend that the Program:

Recommendation #1

Continue recording and compiling data on the Service Request form, analyzing the data on a weekly basis, and automate the data collection system. (Priority 3)

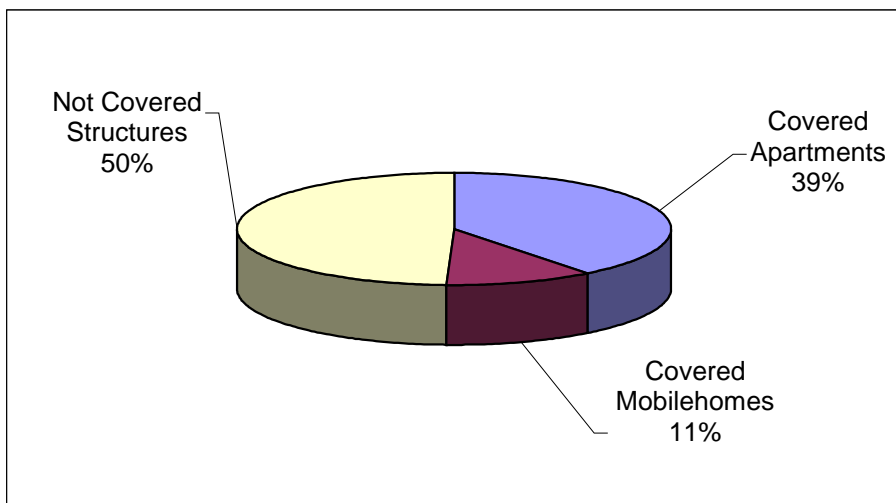
Recommendation #2

Require staff to complete the weekly activity logs for compilation and analysis purposes. (Priority 3)

**Half Of All Callers
To The Program
Are Not Living In
Structures Covered
Under The Rent
Control Ordinances**

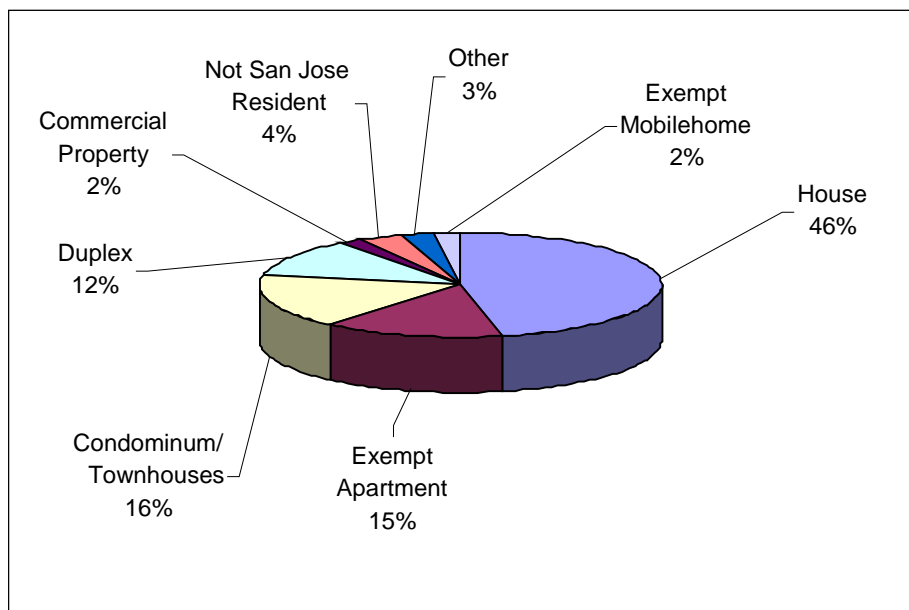
Based on the two months of data we collected, 50 percent of all calls into the Program are from individuals living in structures not covered under the Ordinances, as shown in Exhibit 4.

Exhibit 4 Ordinance-Covered/Not Covered Callers



Most of the callers to the Program who were not covered under the ordinances lived in single-family houses, duplexes, condominiums, townhouses, and exempt apartments (built after 1979 or Section 8), as shown in Exhibit 5.

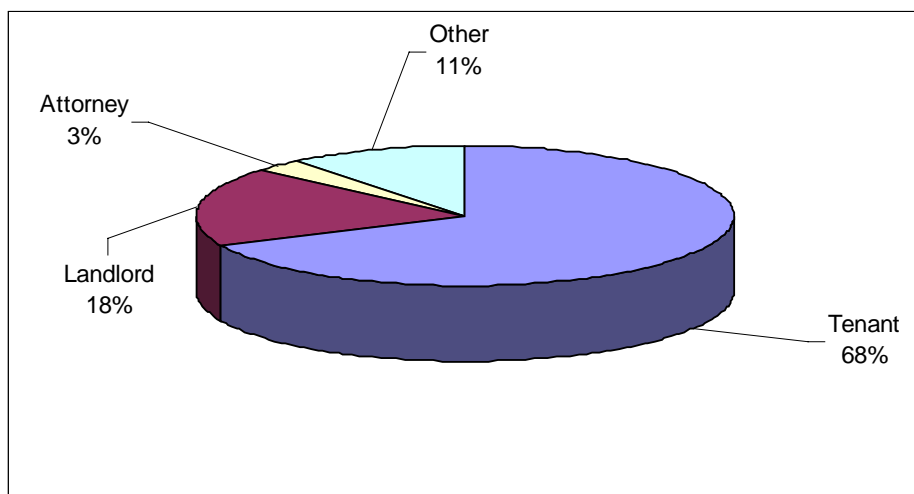
Exhibit 5 Reasons Callers' Structures Were Not Covered By Ordinances



**Tenants
Represented 68
Percent Of Callers
To The Program**

Based on the two months of data we collected, tenants represented 68 percent of the callers to the Program, as shown in Exhibit 6.

Exhibit 6 Composition Of Callers To The Program

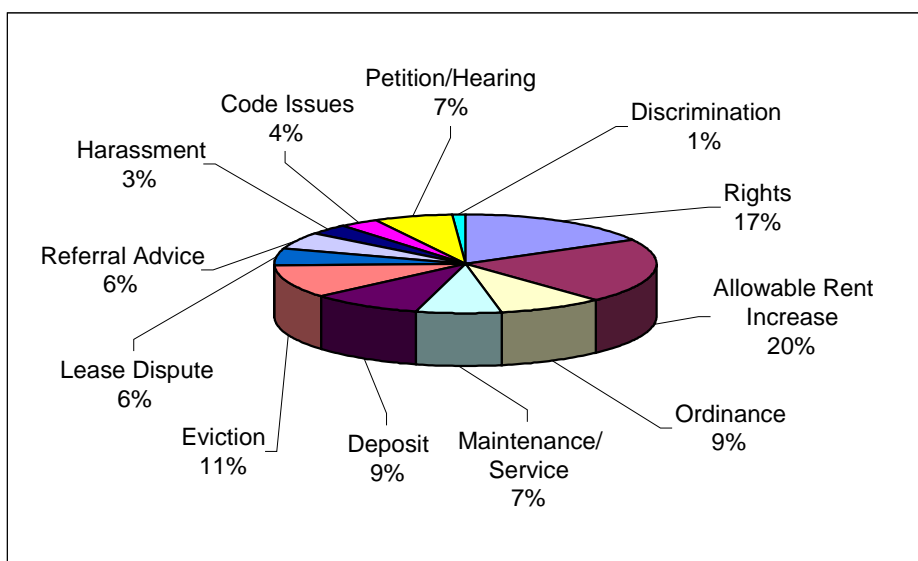


As shown in Exhibit 6, other callers to the Program represented 11 percent of call volume and included friends or family of tenants or Community-Based Organization representatives calling on behalf of tenants.

Of The Calls To The Program, 11 Percent Were About Evictions

Based on the data we collected for two months, only 11 percent of the calls to the Program were about evictions, as shown in Exhibit 7.

Exhibit 7 Composition Of Calls To The Program By Topic

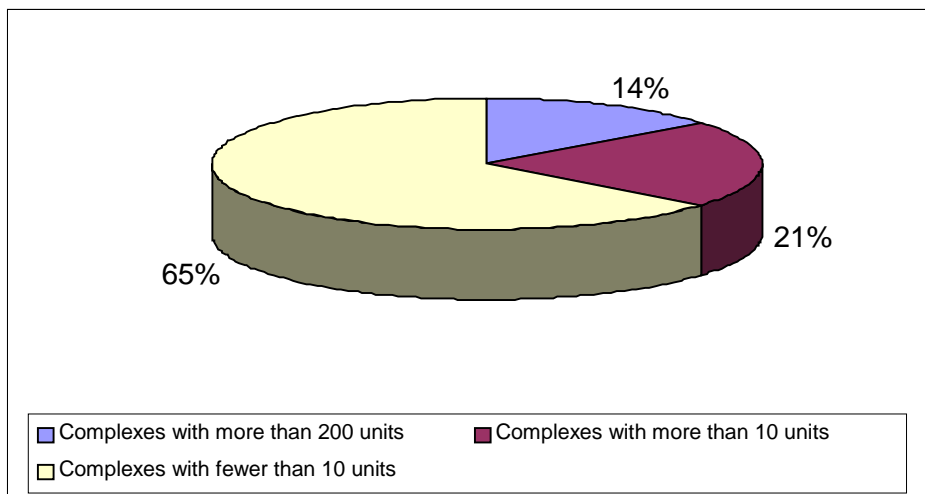


The topics most frequently discussed during calls to the Program were tenant and landlord rights and allowable rent increases.

Of The Callers To The Program Who Were Concerned About Evictions, 65 Percent Lived In Apartment Complexes With Fewer Than 10 Units

Based on five weeks of eviction data we analyzed, of the callers to the Program who were concerned about evictions, 65 percent lived in apartment complexes with fewer than ten units, as shown in Exhibit 8.

**Exhibit 8 Callers Who Were Concerned About Evictions By
Apartment Complex (Based On Five Weeks Of
Data)**



Conversely, of the callers to the Program who were concerned about evictions, only 14 percent lived in apartment complexes with more than 200 units.

In our opinion, the Program should continue to collect and analyze apartment complex size data for those callers who are concerned about evictions in order to determine whether evictions are more problematic in apartment complexes of a certain size.

We recommend that the Program:

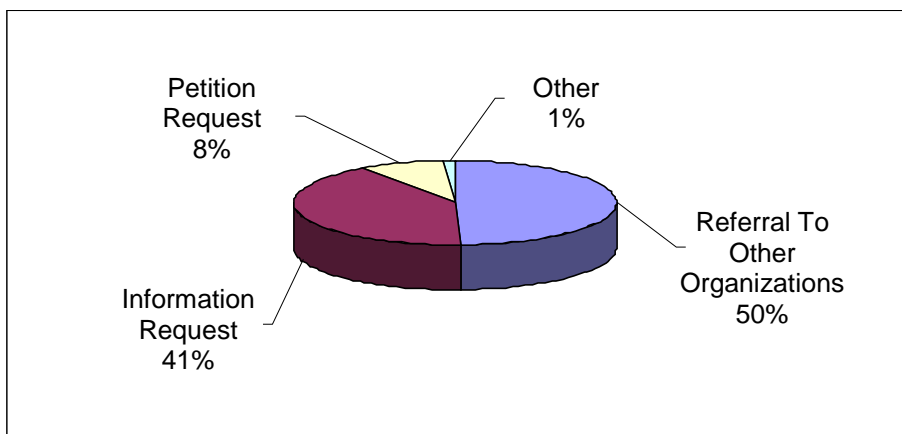
Recommendation #3

Collect and analyze apartment complex size data for those callers who are concerned about evictions. (Priority 3)

**Program Staff
Refer Half Of All
Callers To Other
Organizations**

Based on the two months of data we collected from the Service Request forms, Program staff referred 50 percent of the callers to the Program to other organizations, as shown in Exhibit 9.

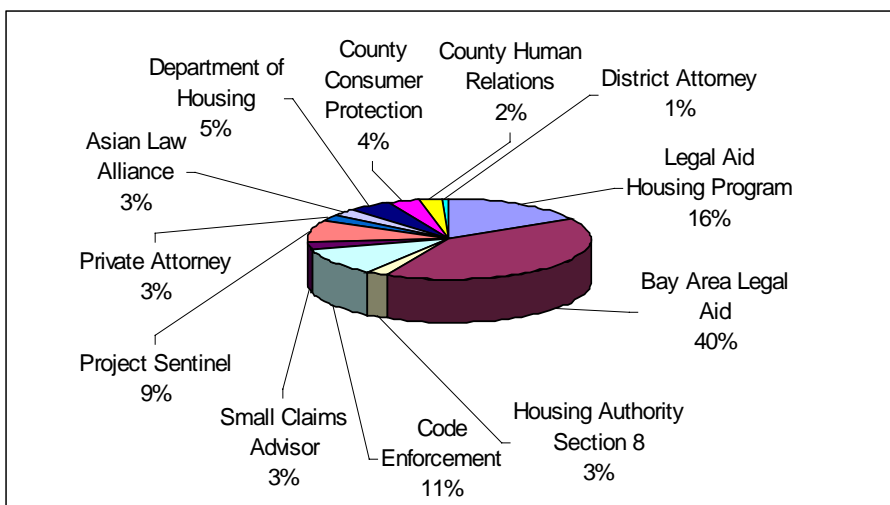
Exhibit 9 Outcomes Of Calls To The Program



Program Staff Directed Most Of Its Referred Callers To Bay Area Legal Aid Or The Legal Aid Housing Program

Bay Area Legal Aid and the Legal Aid Housing Program received most of Program staff referrals to other organizations, as shown in Exhibit 10.

Exhibit 10 Where Callers Are Referred



As shown in Exhibit 10, the organizations to which the Program refers its callers most frequently include Bay Area Legal Aid, Legal Aid Housing Program, Code Enforcement, and Project Sentinel (See Appendix D - Rental Dispute Program Referral Agencies). While these callers are not living in ordinance-covered structures, all of the rent control

stakeholders to whom we spoke during our audit felt the Program should continue to provide service to these callers.

**Program Outreach
Should Be
Improved Through
Partnership
Strategies And
Targeted Education**

As shown in the previous graphs, the Program refers many callers to Community-Based Organizations such as Legal Aid Housing Program, Bay Area Legal Aid, and Project Sentinel. For 2001-02, the City allocated \$100,000 for increasing public awareness of the Rental Dispute Program. A September 24, 2001, joint memorandum from the Director of PRNS and the Acting Director of the Housing Department to the Economic Development and Environment Committee, recommended that \$55,000 of the \$100,000 outreach budget be dispersed to Community-Based Organizations for the purpose of increased outreach. In our opinion, the Program should develop a strategy to allocate the \$55,000 in outreach dollars to Community-Based Organizations.

In addition, the Program can improve its communication and information sharing with these organizations. Specifically, in addition to English, the Program should make its brochures available in Spanish and Vietnamese to those Community-Based Organizations staff refers callers to most frequently. Additionally, the Program should request that these Community-Based Organizations hyperlink their websites to the Program's home page.

Another means of improving the Program's outreach efforts would be to have electronic versions of the Program's petition and instructions on how to complete them available to Community-Based Organizations. Further, the Program should modify its petition form to identify the organization that originated the petition. This would provide the Program with another basis for allocating outreach dollars among the Community-Based Organizations.

By increasing and improving its outreach efforts with Community-Based Organizations, the Program will better serve those people in need of rental issues assistance in San Jose. Further, by increasing partnerships with Community-Based Organizations with broader language capabilities, the Program can increase its outreach in other languages as well.

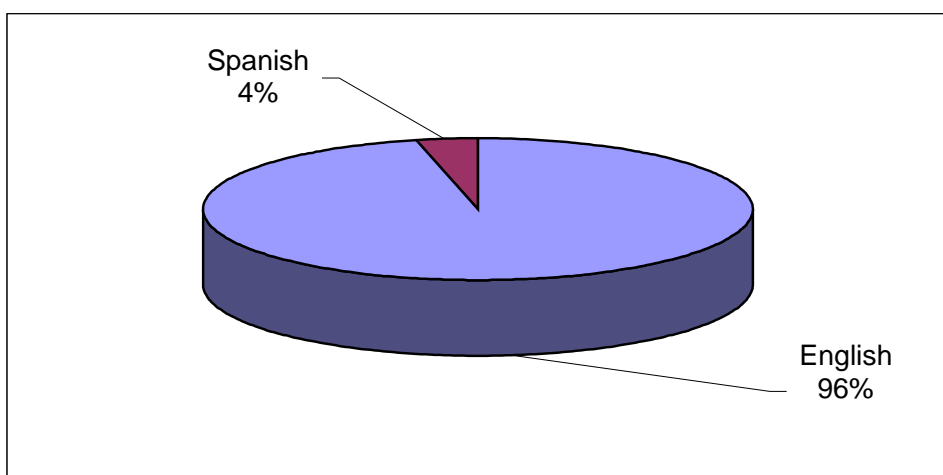
Currently, the Program relies on renters and landlords to call into the Program with rental issues. In our opinion, staff also should proactively reach out to people and organizations through education and awareness. Specifically, the Program

should increase its outreach to the San Jose Board of Realtors, the Tri-County Apartment Owners Association, and other groups. Such outreach will help ensure that those persons and organizations that are most affected by San Jose's rent control ordinances are aware of the rules and regulations governing them.

Of The Callers To The Program, Four Percent Did Not Speak English

Based on the data we collected from the Service Request forms, four percent of the callers to the Program did not speak English, as shown in Exhibit 11.

Exhibit 11 Caller Language Spoken

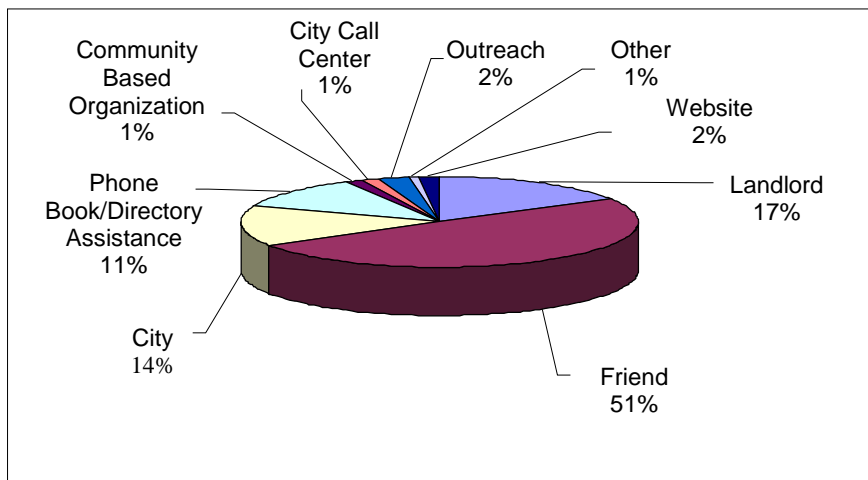


Given that San Jose is an ethnically diverse community we would expect that the percent of callers who speak a language other than English would be higher. In our opinion, the above graph clearly indicates the need for the Program to target Spanish, Vietnamese, and other language audiences. Specifically, the Program should target for outreach those geographic areas of San Jose that contain both a significant number of ordinance-covered structures and non-English speaking residents.

Only Two Percent Of Program Callers Cited The Program's Outreach Efforts As Their Source Of Program Awareness

From October 9, 2001 through December 7, 2001, friends referred over half of the callers to the Program, as shown in Exhibit 12.

Exhibit 12 Caller-Cited Sources Of Program Awareness



The information shown above clearly suggests that caller Program awareness is largely the result of word-of-mouth and not the Program's current outreach effort. In fact, only two percent of the callers to the Program cited the Program's outreach efforts as their source of Program awareness.¹ This lack of outreach effectiveness evidences that Program staff should continue to track callers' sources of Program awareness as another means of targeting outreach dollars.

In our opinion, the Program can improve its outreach effectiveness by increasing outreach in other languages, targeting San Jose geographic areas with both a significant number of ordinance-covered structures and non-English speaking residents, and continuing to track sources of caller Program awareness.

¹ It should be noted that the Program's website was the source of Program awareness for only two percent of the Program's callers. Improvements to the Program's website (see page 21) could significantly increase this percentage.

We recommend that the Program:

Recommendation #4

Build stronger partnerships with Community-Based Organizations, provide Program and Ordinance information to those persons and organizations most affected by rent control, and target outreach dollars to specific geographic areas and non-English speaking residents. (Priority 3)

The Program Should Develop Written Office Procedures, Cross-train Staff, And Develop A Purpose Statement With Corresponding Goals, Objectives, And Performance Indicators

Many opportunities exist to improve office procedures at the Program. The Office Specialist and Senior Analyst job descriptions should be updated. The Community Activity Worker position should be formalized through a written job description. In addition, Program management should develop, and the PRNS Deputy Director assigned to the Program should approve, written office procedures. The absence of written office procedures coupled with the recent office move, staff turnover, and chronic staff illness caused Program staff to not fulfill all of its duties and responsibilities.

In addition to a lack of written procedures and job descriptions, the Program's current Investing in Results (IiR) documentation is not relevant to the Program. Currently, the Program measures itself against the "number of customers reporting increased knowledge" about rent control, but Program staff does not track this information. Another measurement is the "number of issues scheduled within 30 days." These two performance indicators do not measure the Program's efficiency or effectiveness or its ability to perform many of its ordinance-required duties.

In our opinion, the PRNS Deputy Director assigned to the Program should work with Program staff to develop a purpose statement and corresponding goals, objectives, and performance indicators that align with the Program description in the ordinances. Further, each staff member should be rated against those objectives as part of the performance review process.

As noted above, staff illness has been a problem for the Program. However, such illness should not result in a failure to carry out Program responsibilities. Staff members should be cross-trained to ensure that one member's absence does not preclude the other staff members from completing basic

Program tasks. Specifically, all Program staff should be able to prepare commission agendas, complete weekly call analyses, and update petition and hearing data in the case log.

In our opinion, the Program would increase its efficiency by tightening up office procedures, developing an overall set of goals and objectives for staff members, and cross-training its staff.

We recommend that the Program:

Recommendation #5

Update its written office procedures and job descriptions, develop a Program purpose statement, goals, objectives, and performance indicators that align with the Program description in the ordinances and cross-train its staff to ensure that staff illness does not adversely affect the Program. (Priority 3)

The Program's Website Needs To Be Updated

The Program's website is difficult to find. The website is housed within the PRNS page on the City's website. Anyone seeking information about the Program would have to know that the Program was listed in PRNS, as opposed to the more logical Housing Department. To visit the Program's website, a user would need to click on the following:

- City Departments;
- PRNS;
- Neighborhood Services; and
- Rental Dispute Program.

Unfortunately, there is not an easier way of finding the website unless one has a link (www.ci.san-jose.ca.us/prns/nsrental.htm). In our opinion, the Program should arrange with the Housing Department to have a hyperlink to the Program's home page because many people looking for the Program website would be inclined to search the Housing Department's website first.

Upon finding the Program's site, one has to find information through a process of trial and error due to an inconsistent menu (the menu changes from page to page). Although downloadable forms are listed on the website, an error message results when one attempts to download a form. The website does contain some information on referrals and the

commissions, questions that tenants and landlords frequently ask, and an overview of the ordinances. However, even though the Program changed location in May 2001, the old address is still listed on the website. While the website refers to the Program's email address, the website does not list the actual email address. Finally, the website only shows the Program's phone number on some pages, but not in a centralized home page location.

In our opinion, the Program's website should be updated with an accurate program address, phone number, and email address on a home page. The Program's website menu should list all documents available on the Program's home page and should easily guide viewers to the information they seek.

**Other Jurisdictions
Provide A
Benchmark For
Effective Websites**

When we compared the Program's website to other jurisdictions with similar rental dispute programs we found that the other jurisdictions had more comprehensive and easier to navigate websites (See Appendix E for other Benchmarking Statistics). For example, Berkeley's Rent Stabilization Board website provides a good benchmark of an informative and effective source of information relating to rent control issues. Guides to rent control, petitions and forms, ordinance information, newsletters, upcoming events, and many more resources are easily obtained through Berkeley's home page. Menu options and Rent Stabilization Board information are clearly laid out and prominently displayed for easy navigation.

Similarly, San Francisco Rent Board's website was recently revamped with a user-friendly and informative home page with a comprehensive menu and a search engine. The site includes meeting and service information, fact sheets and forms, commission and ordinance information, faxback services, links to helpful sites, statistics (including the annual report), and a contact information page with the Rent Board's mission, contact information, address, hours, and email address. The site also has a customer satisfaction survey to ensure continuous improvement. The San Francisco Rent Board's Executive Director stated that he worked with the City of San Francisco's Information Technology Department for about nine months to complete the website upgrades.

San Francisco's website has the following downloadable brochures:

- Ordinance overview;
- Detailed tips on completing the petitions (any time a petition is sent it is accompanied by a completion checklist);
- Eviction overview;
- Overview of most common repairs;
- Annual increase and calculation overview;
- Passthrough overview; and
- Mediation program overview.

In our opinion, placing brochures, petitions, and other valuable information in easy-to-download formats would reduce the time Program staff spends on answering repetitive questions. It also would increase service levels to San Jose residents looking for information on rental issues.

We recommend that the Program:

Recommendation #6

Update its website with an easy-to-use menu, additional Program information, and links to other organizations including the City’s Housing Department website. (Priority 3)

**The Program’s
Current Answering
System Is
Inadequate**

Due to increased outreach efforts, the workload of the Program is expected to increase. According to a July 20, 2001 memorandum from the Director of PRNS and the Housing Department, “...additional staffing will be needed to provide adequate customer service and to allow for adequate phone coverage due to increased calls generated, as well as giving staff the time needed to implement the public education actions....”

Rather than hiring additional staff, other means of responding to caller needs should be considered to meet anticipated needs of residents requesting assistance related to rent control issues in San Jose. We have found that other cities have reduced staff workloads by creating effective and informative caller information systems.

San Francisco’s Rent Board claims that its sophisticated, 24-hour caller information line does the work of two to three full-time employees and paid for itself within a few months.

According to the San Francisco Rent Board's Executive Director, the system was established eight years ago and has greatly benefited the Rent Board since its inception. The Executive Director also states that the call system provides information to callers on over 70 topics in three languages and is available 24 hours a day, seven days a week. The Executive Director stated that the call system cuts back tremendously on routine calls and is designed to reach the highest amount of people in the least amount of time with the highest quality of information.

Callers always have the option of pressing 0 to speak with a counselor. However, of the 7,887 calls that came into the system in September of 2001, only 1,668 were transferred to counselors. In other words, about 80 percent of the callers received the information they needed through the call system without having to speak with a counselor. The Executive Director believes that counselor morale has increased because they believe that their skills as rent control specialists are better utilized.

San Francisco's call system includes referral agency information, which has significantly reduced the time spent making referrals to other agencies. The fully-automated system gathers data and automatically builds reports such as calls per topic, time spent per topic, and number of faxes sent per topic. The system gathers information on callers to the recording as well as on live counselor calls. The Executive Director tracks time spent on calls per counselor, which assists the Rent Board with staff performance issues. In October 2001, of the calls into the system, 30 percent were placed after hours and 20 percent of the callers requested information through the faxback service.

Before the system was in place, San Francisco's Rent Board received complaints that different counselors were giving different answers to the same questions about rent control. With the information line, all callers receive the same rent control information. The system's built-in feedback line has received overwhelmingly positive feedback from the public about the 24-hour service line.

The Rent Board's call system is a Lucent product, fully scalable to allow for additional features to be added after installation (two of the Rent Board's phone features were appended after the initial setup). The system cost was about \$110,000

(\$25,000 for professional recording & translation fees, \$45,000 for hardware & software, \$20,000 for faxback service, and \$20,000 for the automatic call back feature).

Call Answering Options Available In San Jose

We spoke with a Senior Electronic Systems Technician in the San Jose Information Technology (IT) Department, who told us that the Program should consider two options for a call answering system. The simple option would be to set up extension boxes, which would allow for various language recordings and would provide basic information to callers such as hours of operation and office address. A more sophisticated option would be to establish a call tree with various caller options. Callers would have the option of choosing various topics about which they could hear recordings in different languages. In addition, callers could leave a voice mail message in order to request brochures or petitions via mail.

Extension mailboxes can be set up for a small monthly fee (roughly \$40 per month). A call tree would cost at a minimum \$800 per month (with a minimum of four ports) and initial setup and design costs would be roughly \$1,000. The IT representative reviewed San Francisco Rent Board's Phone System and suggested that it appears to be similar to the City's ASIS system, which could be used in conjunction with an extension mailbox.

The Program has two telephone numbers, 277-5431 and 277-5432, and three extension mailboxes assigned to the main extension. The main mailbox is recorded in one language and lets the caller know they have reached the Program and may leave a message. Often, the Program's message is outdated. For example, as of January 3, 2002 the message still referred to staff being away from the office on November 29, 2001. We have alerted the IT Department that some callers into the Program receive a busy signal and are not forwarded to the recorded message. According to IT, this is a simple repair that they will make immediately.

The Program has many options available to augment their phone system that are already established and free of charge. For example, the two additional extension boxes that are not being utilized could contain recordings in Spanish and Vietnamese. The Program could also record basic information about the Program such as the allowable rent increases for mobilehomes and apartments (the number one topic discussed on calls). Another option that the Program should explore is to

have after-hours calls forwarded to the City's Call Center. Program management has met with the Call Center to explore this and other arrangements to ensure callers receive information. The Program's Service Request forms currently track the complexity of calls. Program staff should evaluate this data when determining the percentage of calls that are basic enough in nature for the Call Center staff to answer.

Other City departments use the AT&T language line for a minimal charge per use in order to provide services to callers in any language. The Program could also use the AT&T language line by simply establishing a password. By so doing, the Program could begin using this phone call translation service immediately.

In our opinion, the Program should work with the City's IT Department to choose an appropriate call answering system. The minimal system requirements should include 24-hour service and recordings in at least three languages (English, Spanish, and Vietnamese). Effective immediately the Program should record its voice mail announcement in at least English, Spanish, and Vietnamese. The Program can make this language upgrade to its existing phone recording for no additional cost.

We recommend that the Program:

Recommendation #7

Work with the Information Technology Department to improve service levels and ensure 24-hour service via an informative, user-friendly, and multi-lingual call answering system. (Priority 3)

Program Staff Should Increase Support For Commissions

We found that commissioners to the Advisory Commission on Rents and Mobilehome Advisory Commission shared similar concerns about Program support for their respective commissions. All the commissioners to whom we spoke had concerns regarding difficulty in achieving meeting quorums, obtaining neutral members, and poor administrative support.

The Chair of the Mobilehome Advisory Commission stated that although the commission is supposed to meet every two months, it met only twice in the last year due to the commission's inability to reach a quorum of its five members. Quorums are difficult to attain because the commission lacks an

adequate number of neutrals. According to the Chair, the commission currently has two of the three neutrals positions filled.

The Chair of the Mobilehome Advisory Commission also stated that many administrative issues have “fallen through the cracks” in the past year because of a lack of Program staff follow-up. For example, a retreat that was supposed to occur in June 2001, is now scheduled for January 2002. The Chair believes that the lack of service provided is due to many factors, including changes in Program staffing, chronic illness of a staff member, and a recent office move.

Upon speaking with the Chair and Vice-Chair of the Advisory Commission on Rents, we learned that it also is difficult for this commission to reach a quorum. The commission is just one neutral commissioner short of a full seven-member commission. According to the Chair and Vice-chair, the commission has difficulty in reaching a quorum because of low attendance rather than an inadequate number of commissioners.

These commissioners also stated that meetings and other administrative duties of the Program have “fallen through the cracks lately.” For example, the commission had to postpone its September 2001 meeting because Program staff did not prepare an agenda in a timely fashion. Because this meeting was cancelled, an amendment to the Apartment Ordinance that the commission suggested during its July 2001 meeting² was not revisited until the commission’s November 2001 meeting. This recommended ordinance amendment was submitted for an initial reading at the City Council’s January 15, 2002 meeting and was approved with minor amendments at the City Council’s January 29, 2002 meeting. This example illustrates how a lack of service to the commissions can cause something like a proposed ordinance amendment to take over half a year to process for City Council consideration.

The Program also has not provided the commissions with timely reporting. Specifically, the Program has historically tracked petitions and hearings for the Advisory Commission on Rents in a bi-monthly summary. However, the Program has not reported such data to the Advisory Commission on Rents since March 2001. According to its Chair, the Mobilehome Advisory Commission also would like the Program staff to provide

² This amendment requires landlords to notify all tenants of their rights under the ordinance.

additional and more timely information in the reports it provides to the commission.

In our opinion, the Program should provide to the commissions a thorough, monthly compilation and analysis of the data it collects from its Service Request forms. In addition, Program staff also should work with the commissions to resolve quorum issues and provide better administrative support.

In addition, the Chair also would like Program staff to work with the Mobilehome Advisory Commission to address mobilehome park owners' and tenants' concerns regarding issues related to mobilehome parks. According to the Chair, the Mobilehome commissioners want to work collaboratively with the Program and the City to ensure that mobilehome parks can continue to provide a source of relatively inexpensive housing for San Jose residents.

Finally, the City's Municipal Code states in Chapter 2.08 that "[e]ach board or commission shall provide to the council not less than once each fiscal year a report of its activities." However, the commission chairs with whom we spoke were unaware of and have not fulfilled this responsibility. The Program does provide an annual report regarding hearing operations to the Advisory Commission on Rents. However, the Program does not provide the Mobilehome Advisory Commission with a similar annual report.

In our opinion, the Program should provide new commission members with information on their responsibilities as part of an orientation training session. This orientation session would help ensure that new commissioners were aware of their duties as commissioners as set forth in the Municipal Code and rent control ordinances.

We recommend that the Program:

Recommendation #8

Assist commissioners by:

- **Actively recruiting commissioners when commission membership is inadequate;**
- **Producing monthly reports for commission meetings, including an analysis of data collected through the Service Request forms;**
- **Assisting with appropriate special studies;**
- **Providing an orientation on City Municipal Code and ordinance-required commission responsibilities; and**
- **Incorporating statistics on calls to the Program in its annual reports to both commissions. (Priority 3)**

Also, in our opinion, the Advisory Commission on Rents should begin meeting monthly instead of bi-monthly. This increased meeting frequency should be necessary given an increase in Program data available for commission review and the importance of proposed Apartment Ordinance amendments (see below).

We recommend that the Advisory Commission on Rents:

Recommendation #9

Increase meeting frequencies from bi-monthly to monthly. (Priority 3)

The Apartment Ordinance Should Be Amended

The Mayor and City Council have undertaken many steps recently to meet the need for affordable housing. These steps include a public outreach and education program, researching the feasibility of new legislation and ordinance changes, and the Mayor’s June 2001 ten-point plan to provide affordable housing for families at all income levels. A prominent step outlined in the Mayor’s ten-point plan was the creation of the Mayor’s Rental Housing Task Force (Task Force) on September 21, 2001. The Task Force has been charged with finding creative and practical solutions to the challenges facing tenants and landlords in the City of San Jose. The Task Force has been asked to develop strategic solutions to various rental housing

issues and to report back to the Mayor within a six-month period.

We have made several recommendations to improve the efficiency of the Program and make staff resources available for other, more proactive, activities. In our opinion, opportunities exist for the Task Force to strengthen the City's Rent Control Ordinances and improve the effectiveness of the Program. For example, the Task Force has already proposed an amendment to the existing Apartment Ordinance that the City Council approved with an amendment on January 29, 2002. This amendment requires landlords to provide notice to all tenants that the unit is subject to the ordinance and provide all tenants with an information brochure from the Program. In our opinion, the Program should ensure that all landlords receive copies of brochures in at least three languages--English, Spanish, and Vietnamese.

The Task Force also is considering another ordinance amendment that would require any landlord who gives a tenant a 30-day notice of eviction to forward a copy of the notice to the Program along with information relevant to the tenant including rental charges and the tenant's phone number if available, to allow for Program verification. The landlord would be required to provide this information to the Program within five days of the service of the 30-day notice. The task force also is considering an amendment that would require the landlord to inform the Program when the unit is re-rented, the rent the new tenant is paying, and similar information about the tenant to permit the Program to verify information submitted. The landlord would be required to provide this information to the Program within an as-yet-unspecified period of time after re-renting the unit (new section 17.23.550).

In our opinion, the proposed Task Force ordinance amendments will improve the effectiveness of the Program. Also, we believe that the Task Force should consider an additional amendment to the Apartment Ordinance. Specifically, the Apartment Ordinance should be amended to stipulate that any landlord submissions to the Program are made under penalty of perjury and are subject to audit.

According to the data we collected from October 9, 2001 to December 7, 2001, callers with eviction issues account for only 11 percent of the calls into the Program. However, according to some rent control stakeholders, a far greater number of

evictions occur but are not reported to the Program. Requiring landlords to notify the Program of all 30-day evictions will allow the Program to quantify the actual number of 30-day evictions. Further, requiring landlords to provide information to the Program pertaining to the rent both before and after the eviction, under penalty of perjury and subject to audit, will also reduce the likelihood of landlords evicting tenants just so they can raise the rent on the unit.

These proposed and recommended amendments to the Apartment Ordinance will 1) allow the Program to develop a reliable database of information on 30-day evictions, 2) help ensure compliance with the Ordinance, and 3) facilitate future City Council and other stakeholders' rent control policy decisions.

Additional Ordinance Amendment Consideration

In our opinion, the Task Force also should consider amending the Apartment Ordinance to require that landlords, and not tenants, be required to petition for rent increases greater than the allowable annual percentage. The Mobilehome Ordinance already requires park owners to petition the Program for rent increases greater than the ordinance maximum. In addition, according to *California Tenants' Rights*³, San Jose, Oakland, and Los Gatos all

...have weak rent control ordinances. Although the rent control ordinances of these areas set forth a certain formula (usually fairly generous to landlords, in the 5-8% range) by which rents can be increased each year, it is possible for a landlord to raise the rent above this figure and still stay within the law. This is because each of these cities' ordinances require[s] a tenant whose rent is increased above the formula level to petition the board within a certain period (usually 30 days) and protest the increase. If [the tenant does] not protest the increase within the time allowed, the increase is effective, even though it is higher than the formula increase allowed. If the increase is protested, a hearing is held, at which the board decides if the entire increase should be allowed. ...Unlike the practice in cities with mild rent control, landlords in cities with moderate-to-strict rent control bear the burden of petitioning the rent board for an above-formula rent increase, and of justifying the need for

³ *California Tenants' Rights* (Berkeley, CA: Nolo, 2001), p. 4/8 – 4/9.

such an increase, based on certain cost factors listed in the ordinance, such as increased taxes or capital improvements.

San Francisco, Berkeley, and East Palo Alto are among these moderate-to-strict rent control cities.

In our opinion, requiring Program pre-approval of rent increases above ordinance maximums will help ensure compliance with the Apartment Ordinance and be of benefit to both tenants and landlords. Specifically, tenants will be afforded additional protection against illegal rent increases. Landlords will benefit because they will be able to reduce or eliminate the number of tenant challenges to justified rent increases above the ordinance maximum.

It should be noted that the PRNS Deputy Director for the Program has concerns that this potential ordinance amendment would significantly increase Program workload and staffing levels. In response to this concern, we surveyed other rent control programs in the Bay Area that require landlords to petition for rent increases above the ordinance maximum to determine what impact this requirement has on their workload and staffing levels. According to the other rent control programs that we surveyed, they receive anywhere from as few as ten to as many as 400 landlord petitions a year. While we cannot predict the exact impact requiring landlords to petition for rent increase above the ordinance maximum would have on San Jose's Program workload and staffing levels, we can make some estimations based on the experience of the other programs we surveyed. Specifically, assuming San Jose would experience a similar number of petitions relative to the number of buildings/units covered under the ordinance, it does not appear that requiring landlords to petition the Program for rent increases above the ordinance maximum would have a significant impact on Program workload or staffing levels, as shown in Exhibit 13.

**Exhibit 13 Comparison Of San Jose’s Rent Control Program’s
Pertinent Statistics To Other Bay Area Programs**

Pertinent Statistics	San Jose	San Francisco	Berkeley	East Palo Alto
Number of buildings covered under the ordinance	5,112	60,000	~3,200	140
Number of units covered under the ordinance	43,454	180,000	19,300	2,800
Number of annual landlord petitions for rent increases greater than the maximum allowable amount	Estimate ~ 100	392 (7 year average)	~ 50	~10
Staff time estimated to process petitions	Estimate ~ 2-5 hours	~ 2 - 3 hours	~ 1 - 3 hours	~ 1 - 2 hours
Estimated staff requirements to process petitions	Estimate ~ .2 FTE/year	~ .5 FTE/year	~ 75 hours/year	~ 15 hours/year
Hearing Officer time estimated to process petitions	Estimate ~ 0-5 hours	~ 10 - 15 hours	~ 5 - 10 hours	~ 6 - 10 hours
Estimated Hearing Officer requirements to process petitions	Estimate ~ 250 hours/year	~ 2.5 FTEs/year	~ 375 hours/year	~ 80 hours/year

We recommend that the Program:

Recommendation #10

Provide landlords with information brochures in at least three languages--English, Spanish, and Vietnamese. (Priority 3)

We also recommend that the City Council:

Recommendation #11

Approve the ordinance amendments the Task Force has proposed and/or is considering requiring landlords to provide the Program copies of 30-day eviction notices and tenant information permitting easy Program verification of rent before and after eviction. (Priority 3)

Recommendation #12

Forward to the Task Force for its consideration an additional ordinance amendment that 30-day eviction notices are submitted under penalty of perjury and subject to audit and Program pre-approval of rent increases in excess of the ordinance maximum. (Priority 3)

CONCLUSION

Adequate, sufficient, and reliable management information is an important internal control for all government organizations. However, we found that the Program did not record, summarize, or retain any information regarding the types of services Program staff provides or the types of activities the Program conducts. Accordingly, we worked with Program Staff to collect workload information from October 9, 2001 to December 7, 2001. Also, we found that the Program can improve its efficiency and by so doing have sufficient resources available to improve its effectiveness by being more proactive in the areas of tenant evictions and rental increases. The Program also can provide the City Council and other rent control stakeholders with significantly more and better information for policy-making purposes. Further, the Program can provide better service to the commissions. Finally, the City Council should adopt the Mayor's Rental Housing Task Force's proposed ordinance amendments and forward to the Task Force additional ordinance amendments for consideration.

RECOMMENDATIONS

We recommend that the Program:

Recommendation #1

Continue recording and compiling data on the Service Request form, analyzing the data on a weekly basis, and automate the data collection system. (Priority 3)

Recommendation #2

Require staff to complete the weekly activity logs for compilation and analysis purposes. (Priority 3)

Recommendation #3

Collect and analyze apartment complex size data for those callers who are concerned about evictions. (Priority 3)

- Recommendation #4** **Build stronger partnerships with Community-Based Organizations, provide Program and Ordinance information to those persons and organizations most affected by rent control, and target outreach dollars to specific geographic areas and non-English speaking residents. (Priority 3)**
- Recommendation #5** **Update its written office procedures and job descriptions, develop a Program purpose statement, goals, objectives, and performance indicators that align with the Program description in the ordinances and cross-train its staff to ensure that staff illness does not adversely affect the Program. (Priority 3)**
- Recommendation #6** **Update its website with an easy-to-use menu, additional Program information, and links to other organizations including the City’s Housing Department website. (Priority 3)**
- Recommendation #7** **Work with the Information Technology Department to improve service levels and ensure 24-hour service via an informative, user-friendly, and multi-lingual call answering system. (Priority 3)**
- Recommendation #8** **Assist commissioners by:**
- **Actively recruiting commissioners when commission membership is inadequate;**
 - **Producing monthly reports for commission meetings, including an analysis of data collected through the Service Request forms;**
 - **Assisting with appropriate special studies;**
 - **Providing an orientation on City Municipal Code and ordinance-required commission responsibilities; and**
 - **Incorporating statistics on calls to the Program in its annual reports to both commissions. (Priority 3)**
- We recommend that the Advisory Commission on Rents:**
- Recommendation #9** **Increase meeting frequencies from bi-monthly to monthly. (Priority 3)**

We recommend that the Program:

Recommendation #10 Provide landlords with information brochures in at least three languages--English, Spanish, and Vietnamese. (Priority 3)

We also recommend that the City Council:

Recommendation #11 Approve the ordinance amendments the Task Force has proposed and/or is considering requiring landlords to provide the Program copies of 30-day eviction notices and tenant information permitting easy Program verification of rent before and after eviction. (Priority 3)

Recommendation #12 Forward to the Task Force for its consideration an additional ordinance amendment that 30-day eviction notices are submitted under penalty of perjury and subject to audit and Program pre-approval of rent increases in excess of the ordinance maximum. (Priority 3)